

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff,	§	
v.	§	
	§	CRIMINAL ACTION NO. 4:15-CR-84
AMADOR GARCIA GONZALES,	§	
	§	
Defendant.	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 12, 2020, to determine whether Defendant violated his supervised release. Defendant was represented by Brian O'Shea. The Government was represented by Marisa Miller.

Amador Garcia Gonzales was sentenced on November 15, 2016, before The Honorable Marcia A. Crone of the Eastern District of Texas after pleading guilty to the offense of Felon in Possession of a Firearm, a Class C felony. This offense carried a statutory maximum imprisonment term of 10 years. The guideline imprisonment range, based on a total offense level of 18 and a criminal history category of III, was 33 to 41 months. Amador Garcia Gonzales was subsequently sentenced to 41 months imprisonment followed by a 3-year term of supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure, drug treatment and testing, mental health treatment, and a \$100 special assessment. On October 2, 2018, Amador Garcia Gonzales completed his period of imprisonment and began service of the

supervision term. On April 7, 2020, 2020, this case was reassigned to The Honorable Sean D. Jordan, U.S. District Judge for the Eastern District of Texas.

On March 8, 2019, the U.S. Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 67, Sealed]. Subsequently, on April 20, 2020, the U.S. Probation Officer executed a First Amended Petition for Warrant or Summons for Offender Under Supervision [Dkt. 72, Sealed]. The Amended Petition asserted that Defendant violated five (5) conditions of supervision, as follows: (1) the defendant must not commit another federal, state, or local crime; (2) the defendant must not unlawfully possess a controlled substance; (3) the defendant must refrain from any unlawful use of a controlled substance; (4) the defendant must participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as defendant is released from the program by the probation officer. The defendant must pay any cost associated with treatment and testing; and (5) under the guidance and direction of the U.S. Probation Office, the defendant must participate in any combination of psychiatric, psychological, or mental health treatment as deemed appropriate by the treatment provider. The defendant must pay any cost associated with treatment and testing.

The Amended Petition alleges that Defendant committed the following acts: (1) On February 23, 2019, Mr. Gonzales committed the offense of Possession Controlled Substance PG 1>= 1G<4G and was sentenced to 2 years confinement in the Texas Department of Criminal Justice on July 31, 2019, under Docket No. 416-82435-2019 in the Collin County 416th District Court. On March 9, 2019, Mr. Gonzales committed the offense of Possession Controlled Substance PG 1>= 1G<4G and was sentenced to 2 years confinement in the Texas Department of Criminal Justice on July 31, 2019, under Docket No. 416-82407-2019 in the Collin County 416th District Court; (2) Mr. Gonzales possessed a controlled substance as evidenced by the offenses committed on

February 23, 2019 and March 9, 2019. On January 9, 2019, he submitted a urine specimen which tested positive for amphetamine and methamphetamine at the U.S. Probation Office. The specimen was confirmed by Alere Laboratories, Inc. Also, on January 11, he provided a verbal and written admission stating he used methamphetamine a few days prior to the submission; (3) On January 15, 2019, he submitted a urine specimen at Addiction Treatment Resources, McKinney, Texas, which tested positive for amphetamine and methamphetamine. The specimen was confirmed by Alere Laboratories, Inc. On January 29, 2019, he submitted a urine specimen which tested positive for methamphetamine at the U.S. Probation Office. He provided a written and verbal admission of said use. On February 7, 2019, he submitted a urine specimen which tested positive for amphetamine and methamphetamine at the U.S. Probation Office. The specimen was confirmed by Alere Laboratories, Inc.; (4) Mr. Gonzales failed to submit to drug testing on January 28, February 5, February 13, and February 20, 2019 as directed; and (5) Mr. Gonzales failed to attend mental health treatment at Fletcher Counseling, Plano, Texas as scheduled on January 27, and February 5, 2019. He contacted the treatment provider at 8:45a.m. on January 27, 2019, to report he would not be able to attend the 12:00pm scheduled session due to car problems. He contacted the treatment provider on February 5, 2019, in the morning to report he would not be able to attend the 2:30p.m. scheduled session because he was at his doctor's office.

Prior to the Government putting on its case, Defendant entered a plea of true to allegation 1 of the Amended Petition. The Government dismissed the remaining allegations. Having considered the Amended Petition and the plea of true to allegation 1, the Court finds that Defendant did violate his conditions of supervised release.

Defendant waived his right to allocute before the District Judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months of imprisonment, with no term of supervised release to follow.

The Court also recommends that Defendant be housed in a Bureau of Prisons facility in Fort Worth, if appropriate.

SIGNED this 8th day of July, 2020.

A handwritten signature in black ink, appearing to read 'C.A. Nowak', is written over a horizontal line.

Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE